



DEFENCE FOI 346/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by [REDACTED] (the applicant), dated and received on 13 October 2023 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

Australian defence force policy on a Affray, fighting, self-defence, information security, protection of private property or similar.

FOI decision maker

2. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. I have identified two documents as falling within the scope of the request.

Decision

4. I have decided to:
 - partially release one document in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act; and
 - refuse access to one document on the grounds that the document is considered exempt under section 37 [documents affecting enforcement of law and protection of public safety] of the FOI Act.

Material taken into account

5. In making my decision, I have had regard to:
 - a. the terms of the request;
 - b. the content of the identified documents in issue;
 - c. relevant provisions of the FOI Act; and
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

REASONS FOR DECISION

Section 22 – Access to edited copies with exempt or irrelevant matter deleted

6. Section 22 of the FOI Act permits an agency to prepare and provide an edited copy of a document where the agency has decided to refuse access to an exempt document or that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access.

7. Document one contains irrelevant information that does not relate to the request.
8. I am satisfied that it is reasonably practicable to remove the exempt and irrelevant material and release the document to you in an edited form.

Section 37 – Documents affecting enforcement of law and protection of public safety

9. Section 37(2)(b) provides that a document is an exempt document if its disclosure under the FOI Act would, or could be expected to:

(b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, or breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures.

10. Paragraph 5.11 of the Guidelines states:

There must be a reasonable expectation that a document will disclose a method or procedure and a reasonable expectation or a real risk of prejudice to the effectiveness of that investigative method or procedure. If the only result of disclosing the methods would be that those methods were no surprise to anyone, there could be no reasonable expectation of prejudice. However, where a method might be described as 'routine', but the way in which it is employed can reasonably be said to be 'unexpected', disclosure could prejudice the effectiveness of the method.

11. I found that the document contains information of a method or procedure which, if disclosed, could reasonably be expected to prejudice its effectiveness as the way in which it is employed can reasonably be considered to be 'unexpected'.
12. In forming my decision I considered paragraph 5.82 of the Guidelines which states that *a document will be exempt if its disclosure would or could reasonably be expected to have one or more of the consequences set out in paragraph 5.79*. I note that the following exemptions outlined in paragraph 5.79 apply and are relevant to this case, in that, release of the documents could:
 - *disclose lawful methods or procedures for investigating, preventing, detecting or dealing with breaches of the law where disclosure of those methods would be reasonably likely to reduce their effectiveness.*
13. I am satisfied that the material contained in the document sought by the applicant is material which discloses the lawful methods or procedures for investigating, preventing, detecting or dealing with breaches of the law. The disclosure of this information would be reasonably likely to reduce the effectiveness of those methods or procedures.
14. I have therefore decided that the material is exempt under section 37(2)(b) of the FOI Act.

FURTHER INFORMATION

15. Information relating to Information Security can be found here: [Information Security Manual - Sept 2023](#).

Catherine



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Catherine [redacted]

Date: 2023.11.10
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Accredited Decision Maker

Navy Group

Department of Defence